



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,618	11/30/2001	David Stein	1136/032	4922

22440 7590 05/24/2004

GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK, NY 100160601

EXAMINER

NGUYEN, KIEN T

ART UNIT	PAPER NUMBER
----------	--------------

3712

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/998,618	Applicant(s) STEIN, DAVID	
	Examiner Kien T. Nguyen	Art Unit 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,6,16,18,24-26,28,29,32,34,35 and 38-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,16,18,24-26,28,29,32,34,35 and 38-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3712

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 6, 16, 18, 24-26, 28, 29, 34, 35, 42, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan U.S. Patent 6,449,460 in view of Kramer U.S. Patent 5,607,339.

Logan disclosed a teaching method and kit comprising a song book having a plurality of pages (18) with each page containing song lyrics (24), a binder connects the pages together; the song book also includes a recording medium as shown in Figs. 5 and 7. It is noted that Logan failed to teach the pages are waterproof and support means for supporting the pages in a shower enclosure. However, as noted in the specification of the present application, singing in a shower enclosure is very well known and countless number of people had done it for a long time. Kramer disclosed a both toy comprising at least one sheet material (15) made from flexible water-proof material such as polymer plastic (see column 1, lines 40-42; and column 2, lines 39-41); the sheet (15) is removably attached to a shower surface (12) solely by a layer of water (24) (see Fig. 3) wetted at least one page and located between the page and the shower surface for selectively attaching the page to the surface by water adhesion as shown in Fig. 1. Therefore, it would have been obvious to one of ordinary skill in the art to modify the pages of Logan with the teaching of waterproof page and supporting

Art Unit: 3712

means for attaching the pages to the shower as taught by Kramer for the advantage of providing a wider usage of the singing teaching device of Logan.

Regarding claim 6, it is noted that Logan shows a cassette as a recording medium instead of a CD recording, and Logan does not appear to disclose means for detachably attaching the recording to the book. However, it is well known in the art that a cassette recording is considered equivalent to a CD recording, and a support means for detachably attaching a recording medium in a book is also well known and widely available. Therefore, it would have been a matter of design choice to modify the cassette recording as Logan with any equivalent recording medium such as a CD and any well-known support means for purpose of preventing the recording medium from misplaced.

Regarding claims 25, 26, 28, and 29, it would have been a matter of design choice to make the song in any desired size and shape to accommodate any particular user.

Regarding claims 44 and 45, it is noted that the combination of Logan and Kramer does not explicitly teach the step of sliding the page along the shower surface as set forth in these claims. However, a wide range of users such as adult and/or children may use the combination of Logan and Kramer and a thin water layer is the sole adhesion means for removably attaching the page to the shower surface. Therefore, it would have been obvious to one of ordinary skill in the art to slide the page of the combination of Logan and Kramer along the shower surface to accommodate any specific user.

Art Unit: 3712

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer ('339).

See the above explanation in the rejection of claims 44 and 45.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 32, 38-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Kramer ('339).

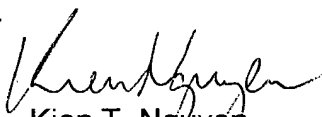
Kramer disclosed all of the steps as set forth in these claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (703) 308-2493. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3712

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kien T. Nguyen
Primary Examiner
Art Unit 3712

Ktn